



No. APP\_55164/2024  
UPC\_CFI\_525/2024

**ORDER**  
**of the President of the Court of First Instance**  
**in the proceedings before the Local Division HAMBURG**  
**pursuant to Rule 323 RoP (language of the proceedings)**  
**Issued on 22/10/2024**

HEADNOTE:

In the context of an agreement on changing the language of the proceedings and subsequent request for translation of existing documents, the Court shall consider the interest of all parties involved in the case being handled speedily as a whole in the language in which the patent was granted, and that the discussions be based on the written submissions and exhibits provided in English by the originally submitting party.

KEYWORDS:

R. 324 RoP - Decision upon request for translation of existing pleadings and other documents

APPLICANTS (DEFENDANTS IN THE MAIN PROCEEDINGS):

- 1- **Easee B.V.**  
Singel 126 - 1015AE - Amsterdam - NL
  
- 2- **Yves Prevoo**  
Singel 126 - 1015AE - Amsterdam – NL
  
- 3- **Easee Holding B.V.**  
Singel 126 - 1015E - Amsterdam - NL

**Represented by:** Wim Maas (Taylor Wessing)

**DEFENDANT (CLAIMANT IN THE MAIN PROCEEDINGS):**

**Visibly Inc.**

207 East Ohio Street #233 - 60611 - Chicago - US

**Represented by:** Marc Grunwald (ps-patent)

**SUMMARY OF FACTS – SUBJECT – MATTER OF THE PROCEEDINGS:**

By a Statement of Claim filed on 12 September 2024, Visibly Inc. brought an infringement action against Easee B.V., Yves Prevoo and Easee Holding B.V., based on EP 3918974.

By a generic procedural application dated 8 October 2024 the abovementioned defendants, referring to R.323 RoP, requested that the language of proceedings be changed from German to English (hereinafter the “Application”). The Application was forwarded to the President of the Court of First Instance of the UPC pursuant to R. 323.1. RoP.

By an order dated 10 October 2024, the claimant in the main action (No. ACT\_51510/2024 UPC\_CFI\_525/2024) was therefore invited, in accordance with R. 323.2 RoP, to indicate within 10 days its position on the admissibility of the request and on the use of the language in which the patent was granted (namely English) as language of the proceedings.

Visibly Inc. submitted its written comments on the Application on 18 October 2024 and:

- agrees to a change of the language of the proceedings from German to English;
- requests that defendants’ motion (item b.) that Claimant shall provide English translations of the Statement of Claim and of four Exhibits (Exhibits PS 1, PS 2, PS 3, PS 5) be dismissed.

In support of this position, the Defendant contends that:

- it is left to the discretion of the Court to decide whether translations of certain documents must be provided (cf. Art. 49(3), 51(1) UPCA, R. 323.3 RoP.
- the requested change should not trigger retroactive obligations, and the LD Hamburg offers the possibility of conducting proceedings in both languages.
- Defendants have instructed an international law firm with offices in Germany.

The Applicants request that Visibly Inc. provide English translations of the Statement of Claim and of four annexes in German (Annex PS1, PS2, PS4, PS5) and that Defendants shall continue the current proceedings from the preliminary objection in English.

**GROUNDINGS FOR THE ORDER:**

**1. On the requested change of the language of the proceedings from German to English:**

As expressly agreed by Visibly Inc. in its written comments on the Application, the language of the proceedings shall be changed to the language in which the patent at issue was granted – namely English.

As this change shall be effective as from the date of the present Order, the current proceedings shall continue in English including all further procedural steps.

**2. On the subsequent request for translations:**

According to R. 323.3 RoP *“[t]he President, having consulted the panel of the division, may order that the language in which the patent was granted shall be the language of the proceedings and may make the order conditional on specific translation or interpretation arrangements”*.

It is furthermore stated in R. 324 RoP that *“[a]n Application under Rule 321.1 or 323.1 shall specify whether existing pleadings and other documents should be translated and at whose cost. If the parties cannot agree the judge-rapporteur or the President of the Court of First Instance, as the case may be, shall decide in accordance with Rule 323.3”*.

In the present case, the proceedings include to date the Statement of Claim (72 pages) and 11 exhibits. Exhibits 1,2,4 and 5 – which are the ones that are not translated – consist of previous decisions from Landgericht Düsseldorf involving the same parties regarding applicants 1 and 2 (27 p, 6 p) and “Merkmalsgliederung” – features analysis (2 p), respectively.

In deciding on this point, the Court shall consider the interest of all parties involved in the case being handled speedily as a whole in the language in which the patent was granted, and that the upcoming discussions be based on the written submissions and exhibits provided in English by the originally submitting party. Moreover, it could reasonably be expected by the Claimant that translations would be requested with regards to the circumstances of the case and in particular the nationality and domicile of the Defendants.

Finally, the change of the language to English is implemented at an early stage without involving a significant volume of translations.

It results from the above that, for reasons of both fairness and convenience, the Claimant should provide an English version of the Statement of Claim along with the four abovementioned exhibits on its costs. With regard to the circumstances mentioned above, a time limit of 10 (ten) days as from the date of the present Order shall be given for this purpose.

It does not appear necessary that other translation or interpretation arrangements should be decided at this stage.

**ON THESE GROUNDS:**

- 1- The language of the proceedings shall be changed to the language in which the patent was granted, namely English.
- 2- Visibly Inc. is requested to provide on its expense English translations of the Statement of Claim and of the four annexes submitted in German (Annex PS1, PS2, PS4, PS5) within a time limit of 10 (ten) days as from the date of the present Order.
- 3- An appeal may be brought against the present order within 15 calendar days of its notification to the Applicants pursuant to Art. 73. 2 (a) UPCA and R.220 (c) RoP.

**INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY:**

The next step is for the Applicants to file the Statement of Defence within the time period as set by the Judge-rapporteur.

Issued on 22 October 2024

**NAME AND SIGNATURE**

**Florence Butin**  
**President of the UPC Court of First Instance**